

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7718

BILL NUMBER: HB 1679

DATE PREPARED: Jan 4, 2001

BILL AMENDED:

SUBJECT: Death Sentence.

FISCAL ANALYST: Mark Goodpaster

PHONE NUMBER: 232-9852

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill prohibits a court from sentencing a defendant to death for committing murder if the sentencing hearing is by jury, unless the jury unanimously recommends the death penalty. It provides that if a jury is unable to agree on a sentence recommendation in a murder case after reasonable deliberations, the court must discharge the jury, hold a separate sentencing hearing, and sentence the defendant to: (1) a fixed term of imprisonment; or (2) life imprisonment without parole.

Effective Date: July 1, 2001.

Explanation of State Expenditures: On November 1, 2000, 52 persons were serving life imprisonment without parole while 41 persons were on death row in Indiana. Expenses may therefore be diminished for death penalty case appeals that involve expenditures by state entities, including: (1) the Office of Attorney General and (2) the State Public Defender's Office.

However, increased expenditures may occur due to increased lengths of incarceration of those offenders who otherwise might have been sentenced to death. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Explanation of State Revenues:

Explanation of Local Expenditures: Under current law, the sentencing court is not bound by a jury's recommendation. In addition, if a jury is unable to agree on a sentence recommendation, the court discharges the jury and proceeds to sentencing as if the hearing had been to the court alone. The court then sentences the defendant to either death or life imprisonment without parole if it makes findings that support its decision. This bill would constrain courts from sentencing a person to death in either of these circumstances.

Between 1981 and 1994, judges sentenced ten defendants to death by overriding the jury. Between 1978 and 1993, courts sentenced six defendants to death after a jury could not agree on a sentence recommendation.

Research indicates that the trial and appeals costs for death penalty cases can be two to three times more than the cost of other criminal prosecutions. (Death penalty case costs are further inflated due to additional police investigation and court time, prosecution resources expended, or the costs of a lengthy jury trial with a sequestered jury.) These expenses are paid from the county general fund. Counties can be reimbursed for half of their expenditures for indigent defense under the Public Defense Fund.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; prosecutors; local law enforcement agencies.

Information Sources: Planning Division, Department of Correction. Indiana Death Row Statistics (1977-2000), <http://www.clarkprosecutor.org/html/death/rowstats.htm>